Unlocking the benefits of diversity

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Executive summary

We wanted to understand what is being done, and what can be done, to improve the representation of female and black, Asian and minority ethnic (BAME) solicitors in senior roles such as partners or directors.

A diverse and inclusive profession is important to us and the firms we regulate as it benefits both the providers and consumer of legal services. This is true at all levels of seniority within law firms.

It is also an important area for other regulators and the Legal Services Board (LSB). In the recently published foreword to the LSB Business Plan 2017/18 the Chief Executive, Neil Buckley, said:

"I cannot emphasise enough just how important improvements in diversity are to the future of the profession and, in turn, to the judiciary. This is an issue that has to be tackled not solely at entry level, where there is a good story emerging, we also need to make sure that action is taken to address diversity differentials in relation to progression to senior levels within the profession."

Our information shows that men are more likely to be working in a higher paid role in a larger firm and are more likely to be a partner/manager. There is also an under-representation of BAME individuals in larger firms including at partner/manager level.

Although real changes have been made over the last ten years with increasing numbers of female and BAME solicitors entering the profession, there is some concern that firms are not benefiting from the recruitment and retention of the most talented individuals, irrespective of their gender and ethnicity. This has an adverse financial and cultural impact on firms.

We decided to gather qualitative information from firms and individuals about career progression and diversity and inclusion. We know that people choose their career path for a variety of reasons. The review has looked at the various drivers and motivations behind these career choices.

The overall picture is that firms have introduced several different practices to help improve diversity at senior levels. There were mixed views from respondents and interviewees about the success of some of these initiatives. We have seen some good examples of what firms can do to achieve this.

Some of the examples in this report require large amounts of resource and commitment that will not be available to all firms. However, we also aim to show that developing an inclusive culture is not just about money. There are many things that all firms can do without going to a great deal of time or expense. The firm's attitude is the most important thing here.

What we did

We carried out a review of existing research on career progression for female and BAME solicitors. We wanted to understand some of the reported barriers and issues faced by these groups in the development of their careers.

However, it was not our intention for the review to focus on the barriers to career progression. We wanted to focus on the positive actions that some firms are taking to retain female and BAME staff and provide equal opportunities for career progression. We have included practical examples as case studies in this report. We hope that these examples can be used to inform and inspire the profession in the development of the approach to this complex area.

The core areas covered by the review

- career motivation and drivers for female and BAME solicitors

- the development of firm culture to create a diverse and inclusive place of work

- the development of working practices to provide practical solutions to some of the barriers identified

- how recruitment and the promotion assessment process can be used to increase law firm diversity.

The review was completed in two stages

Stage one

This included:

- an initial questionnaire sent to 70 firms we had identified as showing exceptional diversity profiles for female and BAME solicitors

- engagement with various interest groups to examine the reasons behind career choices and identify firms that have taken positive steps for the career progression of female and BAME solicitors.

Engagement with the interest groups included:

- face to face meetings with representatives

- telephone conversations promoting the project and our interest group online questionnaire

- individual group members completing the online questionnaire

- attendance at events to promote the project such as 'Celebrating women in law: A shattering of glass'. We assessed the information gathered from the above to identify firms which were suitable for a visit.

Stage two

This involved in-depth interviews with representatives and an employee of the 32 firms identified at stage one. It also involved ongoing engagement with the interest groups.

We visited firms who had demonstrated a positive approach to career progression for female and BAME solicitors. We considered that these firms would give us the best examples of what firms could do in this area.

Throughout this report, we refer to the following sources of information:

- The online survey completed by members of various interest groups (respondents).

- The firm employees interviewed during our visits (interviewees).

- Interviews with the chair or representative of the interest groups (representatives).

- Interviews with firm representatives.

What motivates solicitors

Why is this important?

Firms need to understand what motivates their staff. This will help them to build an inclusive and supportive culture to encourage staff progression and retention. It will also help them to attract and recruit the best talent which in turn leads to better economic growth.

We also looked at this:

- to help us understand the reasons behind the equality, diversity and inclusion (EDI) information we hold

- to help us consider career motivations when developing our future policies.

The review has shown that not everyone wants to progress to a senior role or management in a law firm. However, the option to do so should be freely available for those who want to.

Challenges

The challenge is to have a system or process in place which encourages and supports everyone to reach their full potential.

It is better for business to have enthusiastic people who want to do their best, as poor motivation can lead to low self-esteem and low self-confidence.

We can encourage people to be motivated by generating opportunities for development and learning. We can also communicate in a way which is clear, objective and easy to understand.

Positive steps

Firms told us about the following approaches they have taken to understand and motivate their staff:

- Providing ongoing training and development opportunities.

- Encouraging staff to network more widely and allowing staff time away from their day job to do this.

- Managers encouraging staff to attend diversity events held at the firm. Some individuals felt more able to attend if their manager supported such initiatives.

What people said

The majority of the career choices for both female and BAME individuals related to practical considerations and economic values. These included:

- the availability of child friendly hours, part time and flexible working conditions

- maternity and 'back to work' practices

- having a good work/life balance

- the stability of the firm

- the firm's reputation and 'brand'

- the capability of the firm and its lawyers.

Some practical considerations included a more personal element:

- The availability of development opportunities and scope for career progression.

- The ability to work as part of a team and in a collegiate/collaborative environment.

- The variety and quality of work to be undertaken.

- The availability of 'stretching and challenging' roles.

- The recognition of expertise and value added to the practice.

Other considerations included factors such as:

- the distance to travel to work

- the amount of pay

- working in an open plan office

- the security of the job

- work conditions.

Firm values were also important. These included:

- the firm's culture and commitment to genuine diversity

- the openness and support of higher management

- the ability of the firm to be innovative.

Career choices

Some career choices related to personal circumstances such as the threat of redundancy or wanting to work in specific areas of law.

People 25 to 34 and 35 to 44 showed a willingness to move firms until they found the right working environment. Influences on this choice of environment included:

- the desire to progress and be challenged

- the need to have quality work

- the lack of recognition at previous firms.

Sole practitioners

Some respondents had decided to set up their own firm or become sole practitioners. Sole practitioners come from a variety of backgrounds, from smaller firms to large city firms.

The reasons why people chose this career include (in no particular order):

- the ability to build up a one to one relationship with clients and offer good service

- flexible working

- bespoke career opportunities which are not offered by other firms

- control of their own finances

- the prestige of owning their own business

- some had struggled to get promotion, for whatever reason, but wanted to stay in the law.

An important factor for many sole practitioners is the flexibility offered by the role. This helps those with family commitments. However, one person said it can be difficult to go back and work in a firm once you have been a sole practitioner for a while.

Other size firms

Those who worked in firms with one to nine managers tended to work in those firms to meet family needs and allow flexibility in their working hours. However, they still wanted to be challenged in their role. The support of colleagues was also an important factor.

The firm's reputation, quality of clients and quality of work were also important to those in firms with ten or more managers. People again wanted to be challenged and supported with good job security.

Key observations included

Gender

- Some women told us they form an impression about a firm and make key decisions very early on in their career.

- Women with children placed more emphasis on roles with child friendly hours. Many had made lifestyle choices, such as reducing their hours or working part time, to meet their family needs.

Ethnicity

- Some BAME individuals felt that they do not have the same career options as non BAME solicitors.

- Some areas of law, such as crime and immigration, are much easier for BAME solicitors to get into than areas like financial law.

- BAME individuals tended to place greater importance on the culture of the firm and its support for equality and diversity.

- The availability of black role models was an influencing factor for one black female respondent.

- The care and expectations of the extended family were an important career consideration for one Indian interviewee.

- The perception that people from the Asian community want to secure a professional job such as a doctor, accountant or lawyer still holds true to some extent.

- There was anecdotal evidence that people from a BAME background will frequently find work as paralegals before looking for a training contract. This allows them to see if they 'fit in' at a firm and whether they want a legal career.

Gender and ethnicity

- Some BAME women said having female BAME role models was very important.

- Having an opportunity to be mentored by a female colleague (rather than a male colleague) would help some BAME women to build their confidence.

- There were suggestions that firms should proactively recognise the achievements of BAME

women and the value they bring to the firm.

- Monitoring the promotion and progression routes of BAME women as compared to the rest of the workforce would help identify trends and support the progression of talent.

- Encourage BAME women in leadership roles to provide mentoring and coaching to female BAME colleagues.

Respondent and interviewee comments about important career factors

We asked respondents what was important to them.

"The firm's values, including professional development, diversity and corporate responsibility.

"The firm's commitment to genuine diversity for example employing black women, non-Russell Group educated women and are there opportunities for these women to progress into senior leadership roles?"

Female respondent, 25 to 34, other black background

"The lack of role models is one of the reasons I left a large US law firm - even though I was told that I was on track for partnership, there were no partners from an ethnic minority background in any one of the firm's European offices."

Female respondent, 25 to 34, other black background

"I chose to stay in a high street firm so that I could ensure that I was available for my child at short notice and also because the timings allowed me to work around pick ups and drop offs from nursery."

Female respondent, 25 to 34, Indian, one to five manager firm

"I aimed for an environment that would challenge me, whilst also being diverse and accepting of all personalities and background. The commitment to excellence that the firm I work at has, generally accords with my own work ethic."

Female respondent, 25 to 34, Indian, 50+ manager firm

Career choices for sole practitioners

We asked sole practitioners about their choice of career.

"My aims have changed depending on my stage of life and family commitments. Flexibility was one of the key factors with a young family, so sole practice was attractive."

Female, age unknown, Arab sole practitioner

"My expertise and adaptability to deal with a new area of law. Client demand for service and competence to deliver. It [is] good to have an attitude that as a lawyer I can solve problems by matching facts against the law and come up with a desired outcome to resolve whatever issue that presents or is at hand.

Female, 45 to 54, black African, sole practitioner

"The influence has been positive. I came into being a sole practitioner unexpectedly, I had just resigned ...and I was contemplating what next to do, I had done a locum job so I was intending to just follow in that regard. However, the market in my area of expertise began to experience some difficulty so work intake for locums was very slow."

Female, 45 to 54, black African, sole practitioner

Good practice questions

- Do my managers and senior staff attend diversity events and encourage their staff to attend as well?

- If staff want to talk through a particular challenge, is this something they can easily and confidently do with their managers or senior staff?

- Are my staff able to attend a range of networking events if they wish to do so?

Firm culture and inclusion

Why is it important?

Culture and inclusion are important to us because lack of a diverse and representative profession is one of our priority risks.

A diverse and representative profession is important because it encourages:

- quality legal services - allowing the best and brightest people to become solicitors and progress in their careers

- the effective administration of justice - solicitors hold an important role in society and should reflect the population they serve

- improved access to services for people of all backgrounds - some people might not choose to seek legal advice if they do not feel they share any social or cultural characteristics with those who work in legal services.

The right culture is also a business benefit and helps to retain good clients and employees.

Challenges

Creating a culture that recognises the benefits of diversity and allows people to perform at their best.

Promoting values and behaviours across an organisation.

Creating an inclusive culture where individuals and groups are valued, respected and supported. All staff should feel comfortable at work and that they are being treated fairly.

Making sure that the right conditions are in place for each person to reach their full potential.

Positive steps

Firms told us about what has worked well and what could work better to create an inclusive workplace culture.

Set an example from the top

Senior members of the organisation need to show a genuine commitment to equality, diversity and inclusion and lead by example:

- Include senior managers in the promotion of diversity events, such as International Women's Day, on internal social media platforms or being positive and proactive on issues such as flexible working.

- Have a strategic board or partner composition target, for example 30 percent female partners.

- Appoint senior figures to EDI roles, for example the managing partner, as an EDI champion and head of the EDI committee.

- Include the head of HR on the firm's board to provide specific EDI updates.

- Have an EDI objective for all partners which is tracked, measured in appraisals and influences pay.

- Make sure that managers receive EDI training as part of their development programme.

Create a diversity and inclusion board

This should be made up of senior individuals who meet on a regular basis. The board should develop and oversee policies as well as monitor key areas such as recruitment, remuneration, retention and progression. It should be empowered to raise awareness of EDI, take action and make recommendations to senior management.

Allocate responsibility for EDI

Give responsibility for EDI to specific individuals, such as an EDI partner/director, make them accountable and empower them to make a difference.

Develop your culture

- Make genuine attempts to understand your staff and get them to share their experiences. For example, encourage staff to post blogs from which you can learn.

- Have a flexible, open-minded approach to managing employees and working. This can be as simple as senior staff highlighting family/personal events in diaries so it removes any stigma attached to staff leaving work early for these reasons.

- Create a respectful culture; for example, provide a prayer/contemplation room.

- Create a supportive culture through mentoring and sponsorship.

- Make positive statements, for example, promoting female lawyers whilst on maternity leave.

Setting up diversity groups

Individuals felt these might be based on characteristics such as gender, ethnicity and religion. Staff welcome an opportunity to talk to like-minded individuals with similar concerns and

issues.

The success of these groups is improved by having senior leadership involvement. This adds credibility and helps get things done. However, senior managers need to be empathetic and committed to the group.

Having an action plan for the group gives focus. This can include exploring opportunities with external networks or looking in greater detail at the firm's diversity policies.

Have positive role models

Good role models can be female or BAME senior managers. Ask your staff what they expect in a role model and choose someone who represents this. Role models can be a positive and inspirational statement of the firm's EDI approach.

Think external

Attend external EDI events such as International Women's Day or join external schemes. For example, the National Citizen Service scheme involves firms hosting a visit from a group of young people from different backgrounds to give them a view of life at work.

Think internal

Run internal events to promote a greater understanding of different cultures/religions and/or the role played by women in society:

- Celebrate religious events, formally or informally. Make sure any food and timings for these events cater for all.
- Celebrate/acknowledge national days and months such as Black History Month and International Women's Day.

Make sure that actions are not just about celebrating events but bringing these events to life through individual experiences.

Carry out a survey

This will improve your understanding of cultures/religions across the organisation and assess your EDI progress and development. Follow up the results of the survey and take action if needed.

Give EDI training

This gives staff an opportunity to understand and discuss EDI. Consider:

- giving EDI training to new starters either through an online course, a DVD or face to face training. Real-life examples bring the training to life
- giving staff the chance to feedback on training to improve it for future staff
- giving EDI training in small groups to facilitate conversation
- having specific partner/manager training
- having regular EDI training and updates
- having bespoke diversity training for example by using actors to act out situations
- providing unconscious bias training. Follow this up with smaller group sessions after to discuss examples of biased behaviour to create an open dialogue
- monitoring and measuring the success of training. This can be done by managers attending,

having a quiz at the end of it and/or monitoring and acting on feedback.

Embed EDI

Embed EDI into your usual processes and procedures with the support of senior management by:

- considering EDI in everything you do from the policies you implement to how you work on a daily basis

- publishing information on what your firm has done on EDI in the last 12 months

- undertaking a regular review of your EDI progress.

Understand staff concerns

It is important for staff to have different opportunities to raise issues of concern. Not all individuals feel comfortable discussing issues as part of a group or raising it in only one way. Firms told us about:

- a formal policy to raise concerns such as a dignity at work, equal opportunities or an employee concern policy

- improving the visibility of the HR team so staff can raise issues easily, for example having HR representatives sit with teams

- setting up a separate initiative outside a formal grievance policy, for example a 'Calling it Out' campaign. This encourages staff to confront and question minor issues as matters are resolved at an early stage

- setting up groups or committees to feed back to senior management about issues, for example an Associates' Committee

- an anonymous EDI suggestion box in a discreet location

- regular firm-wide communications which let staff know what to do if they have any issues or concerns

- staff surveys, followed up by a roadshow and exit interviews

- holding 'connect' sessions where the firm talks to the staff about what is going on and gives them the opportunity to raise any issues

- having EDI as a standing item on team meeting agendas and monthly supervision meetings

- a confidential whistle blowing helpline/employee welfare/assistance programme that is run externally

- an open door policy across the firm

- publishing details of network group members who can be contacted in confidence if there is a specific issue.

Good practice questions

- Have I considered a diversity committee with committed senior management as members?

- How is EDI embedded into my processes and procedures?

- Can I think of an example where I have taken positive action around EDI?

- When was the last time I reviewed the EDI training I offer to see if it could be improved?

- How committed are senior staff at my firm to EDI and what have they done?

Case studies

Leading from the top

The CEO at one firm chairs the diversity committee as EDI is personally important to him. If any issues are raised at committee meetings, his presence means he can take immediate steps to deal with them. Representatives come from all offices and the committee meet quarterly. The presence of the CEO means that action points and responsibilities are taken seriously.

Another firm has regular staff lunches where all members of the firm are invited to talk about any issues they face. They make sure that senior staff are spread around the tables to discuss and share their experiences.

Diversity groups

This firm has recently launched a diversity and inclusion strategy that included setting up six sub-diversity groups: gender, LGBT, socio-economic, race and faith, age and disability. Employees and partners of all levels volunteered to manage and drive forward the strategies of the various groups. Each of these groups has a team leader who sits on the main committee that meets quarterly.

Groups at the firm have built on relationships with Stonewall, joined PRIME and put diversity and inclusion comment boxes around the office to welcome all employees' suggestions. Some of the groups have also provided additional training including unconscious bias training.

External work

This firm partners with a number of organisations to advance work on EDI for both the firm and the profession. It is a founding signatory of the Law Society's Diversity and Inclusion Charter and develops and supports initiatives to attract and retain staff from minority groups.

The firm has been involved in the Legal Launch Pad programme, managed by the Black Lawyers Directory since its launch, and this feeds into its trainee recruitment.

As part of the firm's Young People in Law programme, it supports UK schools by providing career guidance, mock interviews and skills sessions with opportunities for employees to participate. The firm has also recently partnered with Aspiring Solicitors, an organisation committed to helping the most talented candidates with the greatest potential as lawyers to maximise their chances of success.

Internal events

This firm does around 60 EDI events a year and has several network groups. Each group has its own budget. They try to get people engaged in diversity issues who would not normally do so. The networks can work as an advocate for change and as a feedback mechanism.

There is a multicultural network with a high profile within the firm. It puts on events throughout the year to educate and celebrate diversity. This has included a fashion show for Diwali and events for Black History Month. One employee talked about the history of the Notting Hill carnival and got some of the performers to visit the firm. The network also came up with the idea of putting cards in meeting rooms during Ramadan to educate people about what to expect, including how fasting might affect someone.

The firm has a multicultural calendar built into Outlook which has key religious and cultural dates such as Ramadan. The social events calendar at the firm raises awareness amongst staff of different religious/social groups. This creates a buzz around the office and brings teams together. This interest has meant the number of events celebrated has grown from four

to 16 per year and has led to requests for the celebration of more events.

At the same time, the diversity committee has grown from 10 to 30 members over the last couple of years.

Embedding EDI

This firm has begun a complete root and branch review of every process and procedure at the firm. The head of EDI is reading each policy to strip out bias and any measures which lead to unintended results around opportunities and rewards.

The management board discuss EDI on a regular basis. Support is provided to HR and the firm's networks through the firm's budget.

The firm has an associate review committee. This committee reached out to each associate and asked them to provide a list of the senior colleagues they work with. The committee then contacted the senior colleagues and asked them to provide a statement about individuals they worked with. The committee read each statement and highlighted bias and any discriminatory remarks. The statements were then sent back to show the consequences of the language used.

The firm has also set up an inclusion and diversity steering group which includes staff at all levels from across the business. The steering group reviews the firm's approach to EDI and is the driving force behind any initiatives. The committee has support from the top level senior board and it was the board that identified the need for a committee. The diversity committee includes one partner from the strategy board and one from the operations board.

Flexible and agile working

Why is it important?

Working practices are a significant aspect of any culture.

Flexible working practices enable individuals to make choices and organise their lives. We found flexible working was used for lots of different reasons including religious requirements, academic learning, child care and relaxation.

In order to work effectively, firms must place an emphasis on the outcomes achieved by fee earners rather than the process. A rigid approach to process is likely to be unfair.

We found new entrants to the profession expected flexibility and placed a greater emphasis on work/life balance. Firms acknowledged the workplace now features five generations. Expectations and motivations appeared to differ between each subgroup.

Perceptions around flexible working vary and firms should be careful to promote and support the concept. In particular, a negative perception (or a fear that there is a negative perception) will undermine attempts by firms to encourage flexible working.

Flexible working: any arrangement which has been negotiated on an individual basis with the employee.

Agile working: any arrangement which is arranged for the benefit of the organisation to allow staff to work when and where they like.

Challenges

Client service

Some people think there is a tension between good client service and flexible working. In particular, some areas of law are believed to be reliant on concentrated periods of work and

long hours.

Perceptions

Firms offer a variety of flexible working arrangements but fee earners are unwilling to adopt them. This is often because of a perception that the policies are aimed at women. In addition, individuals might associate flexible working arrangements with people who are less committed to the business and/or less career driven.

Technology

Agile and flexible working are often under-pinned by technology such as laptops and mobile phones. This can be costly which is prohibitive for some firms.

Positive steps

Firms told us about the following approaches they have taken to agile and flexible working:

- Promote agile and/or flexible working at all levels of the organisation and be supportive. People are different, so let them work differently.

- Be transparent across the organisation about the flexible arrangements and why they are necessary.

- Monitor agile and flexible working arrangements. An ineffective arrangement does not help either party, so review arrangements to check they are still useful and appropriate.

- Begin all conversations about flexible working positively eg "we can offer flexible working if we…"

- Consider short-term, mid-term and long-term possibilities. An arrangement might repeat or be a single event, for example a sabbatical.

Firms say

We changed the culture by shifting the onus. We began by assuming all flexible working requests could be agreed. Managers had to prove why flexible working couldn't work.

The benefits are that you retain a greater number of people especially those returning from maternity leave. It helps you attract staff and gives rise to continuity as staff stay and therefore clients deal with the same individuals that understand their business.

It gives employees freedom and as a result you get more out of motivated and engaged staff.

Good practice questions

- How many of my staff work flexibly?

- Who isn't working flexibly? Why?

- Do I work flexibly? If not, why not?

- How do I promote flexible working?

Case studies

Flexible working culture

All partners at the firm, including the managing partner, work from home at least once a week. One of the partners is based at home and comes to the office when required. Adoption of flexible working by senior members of staff shows others that it is acceptable and useful.

Another firm supports ad-hoc flexible working but encourages individuals to leave private appointments open. The firm said it was important to be flexible and to demonstrate this.

One firm provided training about flexible working. This provided people with ideas about what they might like to do but also gave managers the tools and reassurance to see how it could be done effectively.

Smarter policies

One firm scrapped the annual leave system and allowed individuals to take as much paid holiday as required. The policy was based on trust and flexibility. The firm was clear about their expectations and what people were required to achieve. Beyond this, individuals were able to take time off when work permitted and cover was in place.

Another firm changed their holiday entitlement to being based on hours rather than days. This allowed staff to take off short periods of time without 'wasting' a day.

Technological support

The firm helps individuals to set up IT at home so they can work flexibly. This involved lending equipment and arranging for an appropriate broadband connection to be installed at the house.

Another firm invested in laptops which enabled fee earners to make and receive telephone calls. This enabled individuals to work remotely and still allow clients to contact them directly.

Monitoring

The firm monitors who requests flexible working. HR is responsible for ensuring consistency across the organisation. Although managers have the final say, members of the senior management team attempt to influence decisions.

Another firm does not monitor flexible working requests. The firm was concerned that by gathering and reporting the data, staff would perceive this as negative scrutiny.

Clients

The firm ensures that client expectations are managed from the outset. Additional contacts are provided to clients for emergencies. Generally clients respond well as long as the work is done on time. Clients also like flexible working arrangements as the technology can be used to allow fee earners to work from the clients' offices.

Education

At one firm group leaders are responsible for educating partners within their groups about EDI. An example of this is where one or two people have made flexible working work well for them. This has had a 'trickle down' effect as people are beginning to see how it can work. The partners offer a flexible and informal approach to employees including being flexible about where people work and when they have to work. There is a direct acknowledgment by the firm that staff have families and they are important.

The firm also offers a special dependent leave of five days which staff take as and when they need it. No formal application is required and it is in addition to holiday leave. The firm accept and support that people need to be off work occasionally.

Parental leave

Why is it important?

Appropriate parental leave is a vital way of retaining staff, skills and experience within your firm. It helps support individuals during a typically emotional and demanding phase of their life

and contributes to their physical and mental health. A good policy might also help boost recruitment and the brand of your firm.

A failure to manage parental leave effectively is likely to bring about significant issues. This might include the loss of talented staff, low morale and ineffectiveness amongst individuals. This might lead to additional recruitment costs and a poor perception in the market.

Significantly, maternity and paternity leave is a very small proportion of the employee's time within the job market. A short period of flexibility and help can generate significant levels of loyalty amongst staff.

Challenges

Staff retention

Many women leave the profession after the birth of a child.

Transition

Following the birth of a child, the parent may be on maternity or paternity leave for a significant period. Individuals may need time and help to adjust to the routine of working and to re-enter the work place.

Unfairness

If firms are reliant on post-qualification experience to promote individuals, parental leave can have an adverse effect, if it is not considered in the equation. As women are more likely to take parental leave, the impact on women is greater.

Good practice questions

- Do I offer shared parental leave?

- Who isn't working flexibly? Why?

- Do I work flexibly? If not, why not?

- How do I promote flexible working?

Positive steps

Firms told us about the following approaches they have taken to maternity and paternity leave:

- Provide technical update training to returning individuals.

- Provide meaningful help and support during keep-in-touch days.

- Provide information and support about the options available to individuals for maternity and paternity leave.

- Offer matching maternity and paternity benefits.

- Offer the same benefits to employees and managers.

- Provide maternity/paternity coaching to help individuals return back to work.

- Explore and promote flexible working arrangements to enable people to balance their work/life commitments following the arrival of their baby.

- Establish a Parents' Network.

- Move away from post qualification experience-based (PQE) promotion and look at skills, experience and ability.

Firms say

Men arranging paternity leave has helped broaden the experience of the workforce. Men have been concerned about how they might be viewed and whether their job will be secure. This experience has helped show how intimidating maternity leave can be for females. It has encouraged discussion and understanding at the firm.

Partners were initially not keen on parental leave and they were used to providing the minimum. However we needed to become more generous to compete within the job market and to retain people.

Parental leave is always based on individual requirements. Don't assume anything!

Case studies

Visibility

The firm encouraged new parents to bring in their new baby during a keep-in-touch day. The firm believed that celebrating the birth of a new child and having an opportunity to meet the new baby helped reassure the parent. The firm considered that there was no better way of showing their acceptance and support. The firm also believed that it sent out a positive message to other individuals who might be considering having a child.

Paternity leave

The firm encouraged men to consider paternity leave. They provided coaching and support to discuss options and relevant flexible working arrangements. The firm also asked new fathers to be role models and write short articles about their experience for staff publications. This included fee earners and partners.

The firm was particularly keen to promote paternity leave as it considered that this would also positively promote females and diversity. The firm believed that if males were also able to request nine months' paternity leave, it would undermine any perceived benefits about employing males rather than females.

Maternity leave

One firm had several strategies to help and support solicitors during maternity leave and their subsequent return to work. This included paying an enhanced maternity package and a bonus on their return to work. The firm also offered maternity coaching before, during and after maternity leave.

In addition, the firm also championed all new families at internal events. Help and support was offered to all individuals with new family/caring commitments and this included specific help for those considering surrogacy and adoption.

Returning to work

One firm acknowledged that women returning to work sometimes struggled to overcome initial quiet periods. The partners actively promoted the women and directed work towards them. The firm monitored the billable hours but also made concessions while the individuals got back up to speed.

Recruitment

Why is it important?

Recruiting a diverse workforce promotes an inclusive organisation leading to business and economic benefits. It increases employee well-being, reduces recruitment costs and

increases productivity. A diverse workforce will better understand the needs of diverse clients. It might also help to access markets that have not been previously tapped into.

Prejudice and discrimination can harm the reputation of a firm and might result in complaints and legal action. It can also reduce a firm's competitive edge if people are continually hired who voice the same opinions and have the same or similar lifestyle interests as those already working at the firm.

Monitoring and evaluation supports the implementation of policies and can help to assess progress and impact. It helps measure performance and improvement on equality and diversity. It is difficult to measure improvement if statistics are not collected or are unreliable.

Initiatives such as contextual recruitment provide an opportunity for candidates from less privileged socio-economic backgrounds to start a career in law. Blind recruitment may increase diversity at the applicant stage.

Challenges

Values

To recruit a diverse workforce, changes must take place in the values that the firm expresses and not just in its policy. Most importantly changes need to be made to the underlying assumptions held by those working in the firm, particularly the decision-makers and leaders.

Leadership

Responsibility for the success of recruitment initiatives lies with senior partners and management. Their commitment, accountability and oversight is required in order to achieve change.

Unconscious bias

Recognising that everyone holds bias before it influences behaviour.

Monitoring data

Policies need to be supported by a comprehensive plan of action which requires firms to collect, monitor and analyse recruitment data.

Recruitment initiatives

Choosing a programme or initiative which helps to increase diversity and being open to a different way of recruiting.

Making sure that candidates recruited through initiatives such as contextual recruitment programmes are valued as highly as those recruited through the more traditional recruitment process.

Where some characteristics have been removed in blind recruitment, other potential biases are still present such as work history or the university a candidate attended.

BAME and socio-economic background

Recruiting candidates from a BAME background and those from less privileged socio-economic backgrounds is challenging. There is recognition that not every candidate starts their career journey from the same place.

Positive steps

Firms told us about the following approaches taken to their recruitment.

- Look at your firm's EDI values.

- Encourage recruiting partners and managers to explore these values.Leadership

- Use partners and managers to support diversity recruitment initiatives.

- Give accountability for the success of recruitment diversity initiatives to decision-makers.

Unconscious bias

- Provide mandatory unconscious bias training to recruiting partners, HR professionals and managers.

- Consider maintaining ongoing training on EDI to all staff involved in the recruitment process.

- Monitor recruitment decisions.

Monitoring data

- Have a system in place to collect and report on your workforce diversity data.

- Consider what the targets and actions are that you want to achieve.

- Use diversity information to monitor your recruitment pipeline and recruits.

Recruitment initiatives

- Consider signing up to a contextual recruitment programme and identify what you want to achieve from this.

- Blind recruitment can be part of a package of initiatives, rather than a stand- alone programme.

BAME and socio-economic background

- Have targeted BAME work experience programmes in place.

Case studies

Leadership

At one firm senior managers are the most significant part of the recruitment programme. The tone is set by them and they help support an inclusive recruitment culture. They are sent on development and leadership courses on developing both staff and the firm. The courses reflect the core values they hold as a firm.

Test yourself for hidden bias

One firm sent out a link to a range of unconscious bias tests to all their staff. The tests showed individuals what their preferences and bias were on subjects such as gender, race and disability.

The firm did not collect the data or monitor who took these tests. It was simply an opportunity to show that everyone has bias and that recognising this bias is the key to changing behaviour.

Unconscious bias

One firm carried out the "Blue Eyes/Brown Eyes" exercise with their recruitment team. This exercise labels participants as inferior or superior based solely on the colour of their eyes. It exposes them to the experience of being a minority.

One group is treated preferentially for a period of time which typically creates friction between

the two groups. This has been helpful to show staff what it is like to be discriminated against.

Recruitment agencies

Another firm gave a briefing to the recruitment agency it uses about diversity and unconscious bias. It specified it wanted a diverse range of applicants. It also informed recruiters that it will not close a position unless it has received an application from at least one woman. This firm now has an equal split of male and female recruits.

Using diversity data to drive change

One firm used its diversity data to highlight the lack of BAME staff being recruited. Its clients were becoming more interested in their workforce diversity data and the number of clients doing this is now picking up pace.

Clients have said this is about risk transparency and they only want to be in the news for positive reasons. If there is an issue about their supply chain, including their legal representatives, the client wants to know about it.

Recruitment initiatives

One firm said it is keen to show that candidates who are shortlisted as a result of contextual recruitment still have to go through a rigorous recruitment process.

It is aware of the privilege allowed to relatives of clients who have easy access to work experience opportunities at the firm. The firm wants to be in a position to offer work experience to one individual from a disadvantaged background for every relative of a client.

Contextual recruitment

Contextual recruitment uses various tracking systems and algorithms to identify candidates. Candidates also must complete a separate set of voluntary social background questions, such as whether they:

- are the first generation to go to university

- had free school dinners

- had to work during their time at university.

It also looks at the postcodes of the schools where people went to school. All of this information is then taken in context, which produces a flag or premium rating for each candidate.

One firm take this flag into account when it has two candidates who are more or less identical. It has also moved away from a purely interview-based recruitment process and the process now includes an interview, case studies and a presentation. It feels this gives candidates more opportunity to show their skills.

BAME background

The BAME network has a Diversity HR Advisor who works closely with HR to analyse and understand the recruitment pipeline. They have jointly developed a strategy to encourage applicants from an African Caribbean background to apply for roles at the firm.

Good practice questions

- Have I spoken to recruiting partners and managers about their attitudes and perceptions on diversity?

- Have I provided a safe environment in which this can be discussed?

- Do I have a range of partners and managers who are involved in recruitment diversity initiatives?

- Do I provide information on initiatives such as contextual recruitment to staff?

- Do I explain why I use contextual recruitment and the benefits of such a programme?

- Are my staff networks supporting the recruitment process?

- Have I stated a commitment to recruit more candidates from a BAME background?

Career progression and promotion

Why is it important?

A fair and transparent career progression process encourages staff who want to progress and gives them confidence in the process.

Coaching can help staff to build confidence and identify their career goals and aspirations.

Mentoring allows staff to benefit from the experience of senior managers, who often act as role models.

Networking allows fee-earners to benefit from more exposure to senior staff. It gives the opportunity to meet new clients and develop their business skills and knowledge.

Challenges

Making sure that:

- the career progression process is transparent and free from bias

- all staff understand what they need to do to be promoted

- candidates feel that they have been treated fairly regardless of gender or ethnicity

- all staff have opportunities to develop the necessary skills and knowledge that will allow them to succeed in a promotion. This involves thinking about whether or not your firm's activities might benefit certain groups over others such as having networking events that are at unsociable hours

- you encourage staff to consider what they want in their career. And for staff to have discussions with their managers about this. Some groups, such as female or BAME solicitors, might need more help and encouragement to do this than others

- measures introduced to increase diversity are working.

Positive steps

Firms told us about the following steps they have taken to encourage a fair career progression process.

Transparency

- Make the promotion policies and systems transparent, for example by having a clear assessment matrix showing the competencies needed at each level.

- Make sure that employees know what they need to do to achieve promotion, for example by publishing the criteria on the staff intranet or in the staff handbook.

Fairness

- Be open with failed candidates for promotion about why they were not selected. This helps them next time.

- Put measures in place to avoid favouritism such as unconscious bias training.

Coaching and mentoring

- Encourage mentoring between senior and junior staff.

- Provide coaching to candidates who are in line for promotion, to help prepare them for greater responsibility. Female and BAME candidates might benefit from specific coaching aimed at building confidence.

- Consider making mentoring part of senior staff objectives.

- Put a sponsorship programme in place for promotions.

Networking

- Encourage all staff to network internally and externally.

- Involve staff in setting up networks, and let them run them.

- Consider whether your networking events are likely to exclude anyone from a certain gender or BAME background.

Other actions

- Consider whether targets for percentages of female or BAME partners might benefit your business.

- Monitor whether any measures designed to increase diversity in senior staff are working. This might involve staff surveys or using diversity data collected by the firm.

Mentoring

One firm says:
Mentoring is particularly helpful to promote and establish business development. There is a strong emphasis on it from the beginning. Everyone is expected to do it. There are set hours from the start and everyone attends the conferences and network days. There are objectives linked to this activity.

Fee earners say:
My mentor was brilliant as I could go to them with anything and at any time of the day or night. We deal with some really difficult clients in crime so having someone to go to is really useful.
Very helpful. I have had mentoring from the start. I have had two mentors, both were chosen to reflect my personality. There is a focus on business development and this is very helpful. At this firm, there is an expectation that leaders will help and lead.
I had formal mentoring as a trainee. It was not very successful. I now tend to have informal mentors who I select myself. There are people I find interesting and tend to be people I work with.
The buddy system was useful and helped to bridge the gap. I came straight from university and there was a huge difference. There is a lot of growing up to be done at each stage. Significantly, being a good employee is different to being a good lawyer. The buddy system helped with this.
Mentoring is important. However it is more important that a person is able to have an open conversation with their mentor. If there is a degree of formality then this might even hinder progress. Peer to peer mentoring might work but this has to be with someone from the same team or department. Distant/email mentoring relationships rarely work.

Networking

A firm says:
All managers at the firm must ensure that networking is being treated as part of a fee-earner's day-to-day role and that they are given an allocation of time for it, at a time which is suitable for them.

Fee earners say:

"Very important. You need to sell work from day one on my team. This makes it easier at four to five years' PQE when it becomes more important.
It is extremely important to network. You are ultimately required to show your business development skills. These are reliant on your ability to network.
Networking is very important. Meetings early in the morning and late at night might put women off. This can be difficult as the people you want to network with are often not available.

Case studies

Transparency

One firm's promotion policy was specially designed to prevent favouritism. Under this system, candidates for promotion needed to be selected, considered and interviewed by a variety of other fee earners of various ranks. Most of these would not have had any personal experience of the candidate. Although this was a complex system to maintain, it made sure that promotions were made based on merit and ability rather than personal connections.

Many firms published their promotion criteria on the staff intranet. This showed the different requirements of each level of promotion, highlighting the new duties which would be needed at every stage. This built trust and gave applicants a realistic idea of how and when to apply.

Targets

A few larger firms had set themselves targets for female partnership.

One firm highlighted the need to keep these initiatives going. After a successful round of female partnership appointments, they had thought that the system would sustain itself, but instead found that the status quo re-emerged very quickly.

Career development

A firm's HR director told us that in her experience, female solicitors were less likely to begin having conversations about promotion early in their career. This meant that they tended to be behind their male colleagues when opportunities became available.

Another firm, however, had career development as a central part of its annual appraisal system. At each monthly meeting and appraisal, the fee earner and manager would discuss career plans and decide what assistance might be needed.

Other firms had EDI goals as part of the appraisal process. This helped to embed EDI at each level of the business.

Coaching

Coaching could be internal or external. At one firm, a retired founding partner had taken a coaching course and now offered her experience to the firm's solicitors.

Other firms arranged coaching from external agencies for their staff. Some smaller firms felt that external coaching took the pressure off the firm.

Some firms provided coaching for solicitors who were eligible for promotions. This included some firms offering specific coaching for female candidates. This helped them to build confidence and ease the solicitors into each successive level and the new duties expected of them.

Mentoring

Some firms were keen to make sure that mentoring began at the outset of a fee earner's career, as trainees or paralegals. Others adopted a form of sponsorship, where a senior member of staff would not only mentor their mentee but also be their advocate at board level.

A few firms looked further afield for mentors. Some used retired partners or alumni of the firm who had moved elsewhere, which meant that mentees could have the benefit of their experience and knowledge of the firm's internal dynamics. Others used external networks and agencies to give mentors detachment and objectivity.

One partner told us that her firm did not offer mentoring. However. when we spoke to her employees they clearly saw her as a mentor, and had benefited from her guidance as they progressed at the firm. Mentoring does not always need to be explicit and formal.

Some mentoring policies, offered to all fee earners, had the potential to benefit female and BAME solicitors especially:

- allowing mentees to select a mentor with certain characteristics - the example used was a woman partner with children who works part-time

- reverse mentoring, where a senior staff member is paired with a junior one to give them an insight into how the firm works 'at the coalface'.

Internal networks

Several firms had well-established women's and BAME networks who met regularly in a variety of events.

One firm felt that BAME staff were too stretched across offices to be able to form an effective network. They took steps to set up regional networks outside the firm, involving staff from several firms.

External networks

For many firms, traditional networking events had taken place outside of work hours and had revolved around drinking alcohol and activities such as football matches.

Some firms had found that this approach was off-putting not only to some staff but also to clients. They had therefore decided to widen their variety of networking to include events like concerts, and those having earlier start times, for example breakfast events, to include employees and clients with caring responsibilities.

Other firms encouraged women solicitors to be part of external networks such as their local Lean In Circle, which not only helped them to develop their own careers but also to build links to local markets. This kind of networking also allowed women to meet with potential clients and suppliers outside the law. One firm had set aside a separate budget for this activity.

Another firm organised conferences and seminars for women lawyers from a number of other firms. An innovative approach came from a firm whose marketing department provides networking training to its employees. This was seen by staff as being very useful. Senior staff could also assist in making introductions with key clients and stakeholders.

Some employees said that they had greatly benefited from secondments, both to the offices of large clients and their firms' overseas offices.

Good practice questions

- Are my promotion processes clear and transparent? If not, why not?

- How can I avoid favouritism and bias in promoting people?

- Are staff encouraged to talk about their career plans?

- Do junior staff have role models within the business? If not, can I find an external mentor?

- Could coaching help staff to acclimatise to new roles as they progress?

- Do I give all of my employees the opportunity to network?

Alternative career paths

Why is it important?

Having an alternative career structure might help firms to keep staff who would otherwise leave if there was no scope to progress within a firm. It therefore makes good business sense.

Although such roles might benefit all staff, some female solicitors said they found these attractive. They give recognition whilst often allowing greater flexibility in working practices which can help those with family commitments. They are also a credible alternative for those who do not want to make a financial commitment to partnership at a particular time. Several firms told us that these roles can be seen as either an alternative to equity partnership or a step on the road towards it.

Challenges

Not all solicitors want to become a manager or partner in a firm. Several firms recognised this and had introduced alternative career paths for their staff.

For some firms the issue was that there were too many people who wanted to join the partnership with only limited places available. For these firms, it was important for them to think of ways to keep their most talented staff. This was an issue for those with a very flat firm structure. It was also an issue for those who had considered gender or BAME managerial targets. Female and BAME solicitors could only be promoted when there are managerial vacancies.

It can be difficult to:

- create a credible an aspirational alternative to partnership

- have transparency around alternative roles.

Positive steps

- Avoid having a flat career structure.

- Consider creating technical, managerial or other non-legal roles to help keep talented staff. Allow people the flexibility to move between these roles.

- Consider the role of fixed-hours posts such as professional support lawyers.

- Make sure that any alternative career roles are equally valued by the firm.

Case studies

Avoiding a flat firm structure

An Alternative Business Structure (ABS) firm was considering introducing associate directors but have not done so yet. They had come to realise that legal roles are limited because there is a flat structure. There are managerial/non-legal roles, for example team leaders and contract managers. The firm also support people moving across the organisation.

Another firm had set up an alternative career working group that has considered alternative career paths. As a result, they had recently introduced the role of managing associate.

Legal and non-legal roles

The firm has a range of non-legal managerial posts. They support people to move between legal and non-legal roles. One solicitor was supported and given training to move into the HR function. Another individual was given a reduced caseload and the money laundering reporting officer (MLRO) role, which they preferred.

By being flexible and allowing this movement the firm retains the people and all their knowledge. The firm have also created senior solicitor and senior associate roles.

All staff can also apply to be on the management board. This is a completely open election with hustings.

Good practice questions

- Do I have a number of different career paths available, avoiding a flat career structure?

- Do I encourage my staff to openly think about their career path and be clear about what they want to do?

Further action and support

What firms suggest we could do

Why is it important

We want to understand the further support we can give to improve the diversity of people at senior levels in law firms. We spoke to the firms and individuals about this.

We will consider how we can best educate and help firms using our programmes such as Training for Tomorrow and Looking to the future. There were some positive comments about the Solicitors Qualifying Examination (SQE) and how this might help with diversity.

We are already delivering work in line with some of these ideas and considering the others.

Positive steps

EDI promotion and networking

- We share positive examples of what firms are doing in this area. This could be by publishing an external report including case studies or workshops to share our findings. We would also like to use information and case studies from this report as part of our Risk Outlook.

- We provide more information about what we are doing and what we would like to achieve, such as the virtual network.

- We run EDI events for HR professionals. This should include more regional events and not just be focused on London.

- We look at what other sectors do, for example bringing diversity champions together to network and learn, as happens in the insurance market at Lloyds.

- We do more to promote the business advantages of having a diverse workforce. An example given was encouraging the inclusion of an EDI requirement in the Legal 500. This would give an opportunity for firms to show the EDI work they have done.

- We do more to recognise those firms who are developing good practice in this area.

- We consider what we can do to help firms in their work to increase the number of BAME solicitors in senior roles.

- We encourage firms to think about what can be done to attract the millennial generation. This could involve initiatives around flexible and agile working to achieve a good work/life balance

for all.

- We monitor how individuals and firms are embedding EDI into their competencies as part of our work on continuing competence in the profession. We will be doing a review of continuing competence in 2017/18.

- We encourage firms to share and publish information on how they measure the impact of their EDI work and monitor any changes.

- We consider further work on social mobility.

Our information

- We consider producing EDI data for trainees so that firms can benchmark applicants for training contracts against the overall number of applications.

- We use our data to monitor career trends.

- We consider how the bi-annual data collection exercise can be done most consistently with the least impact on firms.

Guidance

- We produce guidance and support focusing on how to manage a career break as confidence might drop after a break such as parental leave.

Conclusions and recommendations

We received a positive response from law firms to the project. We were pleased with some of the steps that have been taken by firms, particularly in the area of gender. We now want to see more firms address the issue of ethnicity and social mobility.

It is clear that many individuals share the same career motivations and aspirations regardless of gender, ethnicity or social background. However firms need to do more to make sure that there is a level playing field in respect of these individuals and their aspirations. We will do what we can to support this.

Good firms we visited:

- had given thought to how they can develop an inclusive culture

- were fair and transparent in their approach to flexible and agile working

- had taken steps to create a more diverse recruitment pipeline

- had clear, fair and transparent career progression processes.

We hope that the good practice examples and case studies set out in this report help to show that achieving a diverse workforce does not have to be complicated and often only really requires an open-minded commitment to diversity. It is not necessarily about spending a lot of money or even about having numerous policies in place, but simply a willingness to enable and be an enabler for change.

There are areas of diversity which this report does not address, such as why career progression and access to senior roles do not reflect the overall female and BAME solicitor population, or why the diversity profile of the profession looks the way it does. These points require further analysis and discussion.

Next steps

Below are two recommendations we feel will help in our journey to achieve a diverse, effective and representative profession.

We will build on our existing research on diversity by undertaking further research where appropriate. We will also facilitate further work with and by other agencies.

We will publish a range of information for the profession on equality, diversity and inclusion as well as material supporting the profession to become increasingly diverse, including a Risk outlook paper on the 'business benefits of diversity. An analysis into the socio-economic background factors which increase or limit achievement or career progression.

Acknowledgements

We are grateful to those who took part in the interviews and completed the online questionnaire. We were particularly pleased by the participation of firms and their employees, as our understanding of a wide range of experiences is an important part of this review.

Interest groups

Interviews with interest groups included:

- the Chair of Women in Law London

- the Chair of the Black Solicitors Network

- a member and previous Chair of the British Nigeria Law Forum

- the Chair of the Association of Women Solicitors (London)

- the Chair of the Hindu Lawyers Association

- the Chair of the Sole Practitioners Group

- the General Secretary of the Association of Muslim Lawyers.

Telephone conferences with interest groups have been held with:

- the Chair of the Society of Asian Lawyers

- the Vice Chair of the Lawyers with Disabilities Division

- the founder of Lesbian and Gay Lawyers Association North East.

Online questionnaire

The questionnaire was fully completed by 44 respondents and partially completed by 140 respondents.